

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

DARREN A. BRITTO, *et al.*,

*Plaintiffs,*

v.

BUREAU OF ALCOHOL, TOBACCO,  
FIREARMS, AND EXPLOSIVES.

*Defendant.*

No. 2:23-cv-19-Z

**DEFENDANT’S UNOPPOSED MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL AUTHORITY**

Pursuant to Local Rule 56.7, Defendant respectfully seeks leave to file the attached supplemental authority in support of Defendant’s Opposition to Plaintiffs’ Motion for a Preliminary Injunction, ECF No. 33. The attached authority is the May 26, 2023 opinion by the United States District Court for the Eastern District of Virginia, in *Miller v. Garland*, No. 1:23-CV-195-RDA-JFA, \_\_\_ F. Supp. 3d \_\_\_, 2023 WL 3692841 (E.D. Va. May 26, 2023). In that opinion, the court denied the plaintiff’s motion to temporarily restrain and/or preliminarily enjoin the Bureau of Alcohol, Tobacco, Firearms, and Explosives’ enforcement of the same rule challenged in this litigation, *Factoring Criteria for Firearms With Attached “Stabilizing Braces,”* 88 Fed. Reg. 6,478 (Jan. 31, 2023). The court held that the plaintiff had not demonstrated a substantial likelihood of success on the merits of any of his claims, including claims that parallel those brought in this matter. *Compare Miller*, No. 1:23-CV-195-RDA-JFA, 2023 WL 3692841, at \*3-4 (statutory authority); *id.* at \*8 (arbitrary and capricious); *id.* at \*9-10 (vagueness); *id.* at \*10-12 (Second Amendment) *with* Pls.’ Br. in Supp. of Mot. for Prelim. Inj. at 16-19, ECF No. 15 (Second Amendment); *id.* at 22-25 (statutory authority); *id.* at 26-27 (arbitrary and capricious); *id.* at 27-29 (vagueness).

Dated: May 30, 2023

Respectfully submitted,

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Principal Deputy Assistant Attorney General

BRIGHAM J. BOWEN  
Assistant Branch Director

/s/ Michael Drezner

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*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 30, 2023, I electronically filed the foregoing document with the Clerk of Court using this Court's CM/ECF system, which will notify all counsel of record of such filing.

/s/ Michael Drezner  
MICHAEL DREZNER  
Trial Attorney  
U.S. Department of Justice

**CERTIFICATE OF CONFERENCE**

Plaintiffs do not oppose Defendant's submission of supplemental authority. Pursuant to Local Civil Rule 7.1, undersigned counsel certifies that he conferred with attorney for Plaintiff for Defendant Daniel Lennington on May 30, 2023, via email regarding Defendant's motion for leave to file supplemental authority.

/s/ Michael Drezner  
MICHAEL DREZNER  
Trial Attorney  
U.S. Department of Justice